

HOUSE BILL 1095

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K4

2004 Regular Session
(41r2245)

ENROLLED BILL
-- Appropriations/Budget and Taxation --

Introduced by **Delegates Busch and James**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **State Employees-- State Retiree Health Care Protection Act**

3 FOR the purpose of creating a Postretirement Health ~~Funding System~~ Benefits Trust
4 Fund to assist in funding the postretirement health insurance subsidy for State
5 employees; authorizing the Board of Trustees for the State Retirement and
6 Pension System to commingle the assets of the Postretirement Health Benefits
7 Trust Fund with the assets of certain other State retirement and pension
8 systems; providing a certain method for funding the Postretirement Health
9 Funding System Benefits Trust Fund; requiring the Board of Trustees for the
10 State Retirement and Pension System to be the trustees for the Postretirement
11 Health Benefits Trust Fund; providing the Board of Trustees with certain
12 powers, duties and indemnification; authorizing the Board of Trustees to incur
13 certain investment and administrative expenses with regard to the
14 Postretirement Health Benefits Trust Fund; providing that the Board of
15 Trustees is not subject to certain provisions of the State Finance and
16 Procurement Article for certain purposes; providing that the funds of the
17 Postretirement Health ~~Funding System~~ Benefits Trust Fund be invested in a

1 certain manner; providing a certain method for the disbursement of funds from
 2 the Postretirement Health ~~Funding System~~ Benefits Trust Fund; providing for
 3 the transfer of funds from the Postretirement Health ~~Funding System~~ Benefits
 4 Trust Fund to the General Fund under certain circumstances; requiring the
 5 Board of Trustees to prepare a consolidated report on or before a certain date
 6 each year that includes certain information; and generally relating to the
 7 creation of the Postretirement Health ~~Funding System~~ Benefits Trust Fund.

8 BY repealing and reenacting, with amendments,
 9 Article - State Finance and Procurement
 10 Section 11-203(d)
 11 Annotated Code of Maryland
 12 (2001 Replacement Volume and 2003 Supplement)

13 BY repealing and reenacting, without amendments,
 14 Article - State Personnel and Pensions
 15 Section 21-102
 16 Annotated Code of Maryland
 17 (1997 Replacement Volume and 2003 Supplement)

18 BY repealing and reenacting, with amendments,
 19 Article - State Personnel and Pensions
 20 Section ~~21-102~~ 21-123(e)
 21 Annotated Code of Maryland
 22 (1997 Replacement Volume and 2003 Supplement)

23 BY adding to
 24 Article - State Personnel and Pensions
 25 Section 33-101 to be under the new title "Title 33. Postretirement Health
 26 ~~Funding System~~ Benefits Trust Fund"
 27 Annotated Code of Maryland
 28 (1997 Replacement Volume and 2003 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 30 MARYLAND, That the Laws of Maryland read as follows:

31 **Article - State Finance and Procurement**

32 11-203.

33 (d) Except as provided in Title 14, Subtitle 3 of this article, this Division II
 34 does not apply to the Board of Trustees of the State Retirement and Pension System
 35 for:

36 (1) services of managers to invest the assets of the State Retirement and
 37 Pension System, including real and personal property;

1 21-123.

2 (e) (1) The Board of Trustees may commingle assets of the several systems,
 3 INCLUDING THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND, if the Board of
 4 Trustees keeps [six] SEVEN sets of records that show:

5 (i) the percentage of participation of each State system or group of
 6 State systems, INCLUDING THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND;

7 (ii) the percentage of income, gains, and losses applicable to each
 8 State system or group of State systems, INCLUDING THE POSTRETIREMENT HEALTH
 9 BENEFITS TRUST FUND; and

10 (iii) the total contributions and disbursements applicable to each
 11 State system or group of State systems, INCLUDING THE POSTRETIREMENT HEALTH
 12 BENEFITS TRUST FUND.

13 (2) The Board of Trustees shall keep records required by paragraph (1) of
 14 this subsection for each of the following:

15 (i) the group that consists of the Correctional Officers' Retirement
 16 System, the Employees' Pension System, the Employees' Retirement System, and the
 17 Legislative Pension Plan;

18 (ii) the Judges' Retirement System;

19 (iii) the Local Fire and Police System;

20 (iv) the Law Enforcement Officers' Pension System;

21 (v) the State Police Retirement System; [and]

22 (vi) the group that consists of the Teachers' Pension System and the
 23 Teachers' Retirement System; AND

24 (VII) THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND.

25 TITLE 33. POSTRETIREMENT HEALTH ~~FUNDING SYSTEM~~ BENEFITS TRUST FUND.

26 33-101.

27 (A) THERE IS A POSTRETIREMENT HEALTH ~~FUNDING SYSTEM~~ BENEFITS
 28 TRUST FUND.

29 (B) THE ~~SYSTEM~~ POSTRETIREMENT HEALTH BENEFITS TRUST FUND SHALL
 30 BE ESTABLISHED AS A TAX-EXEMPT TRUST, IN ACCORDANCE WITH § 401(H) § 115 OF
 31 THE INTERNAL REVENUE CODE OR OTHER APPLICABLE FEDERAL STATUTE.

32 (C) THE PURPOSE OF THE POSTRETIREMENT HEALTH ~~FUNDING SYSTEM~~
 33 BENEFITS TRUST FUND IS TO ASSIST THE STATE IN FINANCING THE

1 POSTRETIREMENT HEALTH INSURANCE SUBSIDY, AS SPECIFIED IN § 2-508 OF THIS
2 ARTICLE.

3 (D) BEGINNING IN FISCAL YEAR 2006, ANY SUBSIDY RECEIVED BY THE STATE
4 THAT IS PROVIDED TO EMPLOYERS AS A RESULT OF THE FEDERAL MEDICARE
5 PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003, OR
6 SIMILAR FEDERAL SUBSIDY RECEIVED AS A RESULT OF THE STATE'S PRESCRIPTION
7 DRUG PROGRAM, SHALL BE DEPOSITED INTO THE ACCUMULATION FUND OF THE
8 POSTRETIREMENT HEALTH FUNDING SYSTEM BENEFITS TRUST FUND.

9 (E) (1) THE BOARD OF TRUSTEES ARE THE TRUSTEES OF THE
10 POSTRETIREMENT HEALTH BENEFITS TRUST FUND.

11 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW:

12 (I) THE BOARD OF TRUSTEES SHALL HAVE FULL POWER TO
13 INVEST AND MANAGE THE ASSETS OF THE POSTRETIREMENT HEALTH BENEFITS
14 TRUST FUND TO ACHIEVE THE STATUTORY PURPOSE OF THE FUND; AND

15 (II) EACH MEMBER OF THE BOARD OF TRUSTEES SHALL
16 DISCHARGE THE MEMBER'S DUTIES WITH RESPECT TO THE POSTRETIREMENT
17 HEALTH BENEFITS TRUST FUND AS A FIDUCIARY AND BE INDEMNIFIED IN
18 ACCORDANCE WITH THE PROVISIONS OF TITLE 21, SUBTITLE 2 OF THIS ARTICLE.

19 (3) THE BOARD OF TRUSTEES MAY INCUR REASONABLE INVESTMENT
20 EXPENSES PAYABLE FROM THE ASSETS OF THE POSTRETIREMENT HEALTH
21 BENEFITS TRUST FUND, AND IN ACCORDANCE WITH § 21-315(D) OF THIS ARTICLE,
22 FOR:

23 (I) SERVICES OF MANAGERS TO INVEST THE ASSETS OF THE
24 POSTRETIREMENT HEALTH BENEFITS TRUST FUND;

25 (II) SERVICES OF ONE OR MORE DULY QUALIFIED BANKS OR TRUST
26 COMPANIES FOR THE SAFE CUSTODY OF THE INVESTMENTS AND BANKING
27 SERVICES; AND

28 (III) ANY OTHER SERVICE THAT THE BOARD OF TRUSTEES DEEMS
29 REASONABLE AND NECESSARY IN CONNECTION WITH THE INVESTMENTS OF THE
30 POSTRETIREMENT HEALTH BENEFITS TRUST FUND.

31 (4) (I) THE BOARD OF TRUSTEES MAY INCUR REASONABLE
32 ADMINISTRATIVE EXPENSES PAYABLE FROM THE ASSETS OF THE POSTRETIREMENT
33 HEALTH BENEFITS TRUST FUND.

34 (II) ADMINISTRATIVE EXPENSES PAID UNDER SUBPARAGRAPH (I)
35 OF THIS PARAGRAPH MAY NOT EXCEED AN AMOUNT EQUAL TO THE AMOUNT OF
36 ADMINISTRATIVE EXPENSES PAID BY THE BOARD OF TRUSTEES UNDER § 21-315(C) OF
37 THIS ARTICLE MULTIPLIED BY A FRACTION:

1 1. THE NUMERATOR OF WHICH EQUALS THE TOTAL ASSETS
2 OF THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND; AND

3 2. THE DENOMINATOR OF WHICH EQUALS THE COMBINED
4 TOTAL ASSETS OF THE SEVERAL SYSTEMS AND THE POSTRETIREMENT HEALTH
5 BENEFITS TRUST FUND.

6 (5) THE BOARD OF TRUSTEES IS NOT SUBJECT TO DIVISION II OF THE
7 STATE FINANCE AND PROCUREMENT ARTICLE FOR:

8 (I) OBTAINING SERVICES OF MANAGERS TO INVEST THE ASSETS
9 OF THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND; AND

10 (II) EXPENDITURES TO MANAGE, MAINTAIN, AND ENHANCE THE
11 VALUE OF THE ASSETS OF THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND.

12 ~~(E) (F)~~ TO THE EXTENT POSSIBLE, THE ASSETS OF THE POSTRETIREMENT
13 HEALTH FUNDING SYSTEM BENEFITS TRUST FUND SHALL BE INVESTED IN THE
14 SAME MANNER AS THOSE OF THE OTHER SYSTEMS OF THE STATE RETIREMENT AND
15 PENSION SYSTEM SEVERAL SYSTEMS.

16 ~~(F) (G)~~ FOR FISCAL YEAR 2006 THROUGH FISCAL YEAR 2016, NO PAYMENTS
17 MAY BE MADE FROM THE ACCUMULATION FUND OF THE POSTRETIREMENT HEALTH
18 FUNDING SYSTEM BENEFITS TRUST FUND.

19 ~~(G) (H)~~ FOR FISCAL YEAR 2016 AND EACH FISCAL YEAR THEREAFTER, THE
20 STATE RETIREMENT AND PENSION SYSTEM BOARD OF TRUSTEES SHALL TRANSFER
21 TO THE GENERAL FUND, FOR THE SOLE PURPOSE OF ASSISTING IN THE PAYMENT OF
22 THE STATE'S POSTRETIREMENT HEALTH INSURANCE SUBSIDY, THE LESSER OF:

23 (1) ONE-QUARTER OF THE PRIOR YEAR'S INVESTMENT GAINS OF THE
24 POSTRETIREMENT HEALTH FUNDING SYSTEM BENEFITS TRUST FUND; OR

25 (2) THE AMOUNT NECESSARY TO PAY THE ANNUAL HEALTH INSURANCE
26 PREMIUMS AND OTHER COSTS THAT CONSTITUTE THE STATE'S POSTRETIREMENT
27 HEALTH INSURANCE SUBSIDY SPECIFIED IN § 2-508 OF THIS ARTICLE.

28 ~~(H) (I)~~ IF FOR ANY REASON THE STATE DISCONTINUES THE
29 POSTRETIREMENT HEALTH INSURANCE SUBSIDY SPECIFIED IN § 2-508 OF THIS
30 ARTICLE OR A SUCCESSOR SUBSIDY, THE ASSETS OF THE POSTRETIREMENT HEALTH
31 FUNDING SYSTEM BENEFITS TRUST FUND SHALL BE TRANSFERRED TO THE
32 GENERAL FUND.

33 (J) ON OR BEFORE OCTOBER 1, 2007, AND ON OR BEFORE OCTOBER 1
34 THEREAFTER, THE BOARD OF TRUSTEES SHALL PUBLISH AN ANNUAL
35 CONSOLIDATED REPORT THAT INCLUDES:

36 (1) THE FISCAL TRANSACTIONS OF THE POSTRETIREMENT HEALTH
37 BENEFITS TRUST FUND FOR THE PRECEDING FISCAL YEAR; AND

1 (2) THE AMOUNT OF THE ACCUMULATED CASH, SECURITIES, AND
2 OTHER ASSETS OF THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 July 1, 2004.